

REMARKS

The Official Action of August 4, 1993 from the Examiner has been carefully studied. At first, the applicant would thank the Examiner for his helpful suggestions for rewriting the claims in accordance to 35 USC § 112. All these suggestions have been scrupulously followed both for amending the claims as well for amending the specification. But the applicant has been surprised to be requested to provide a substitute specification with no claims. It is rather unusual and inconsistent with 37 CFR 1.125. However such a substitute application together with its marked-up copy is submitted with the present response to the Examiner's action without claims to be agreeable to the Examiner. And the two statements, one for affirming this specification contains no new matter and another one for stating that the marked-up copy indicates the same changes, are accompanying this substitute specification on a separate paper sheet. As well a properly executed oath according to 37 CFR § 1.67 (a), identifying the application by its serial number and its filing date, is provided along with the corresponding fee as required by the Examiner in view of the alteration by stapling of the translation of the application submitted on November 8, 92. According to MPEP 608.01 (r) any derogatory remark concerning Ditto and Pappas documents has been removed and only comparisons have been kept.

The applicant has been also surprised by the requirement of an abstract. An abstract has been provided in English already twice to the US PTO. Not only by the applicant for the filing of the present application (national phase for a PCT application) on September 3, 92 but also on September 19, 91 by the WIPO according to PCT article 20. So the abstract which has been provided in the substitute specification is presented as amended with respect to the English text which has been originally filed twice.

On the other hand the applicant is very sorry to notice that the Examiner has examined claims, such as filed in the original PCT application, and not the claims amended in view of the PCT International Search report and favorably submitted to the International Preliminary Examination. It is surprising because it was clearly mentioned at the top of the first page of each set of claims whether it was the set of claims as originally filed or the set of claims amended. In addition, the translation of the claims has been accompanied by the translation of the statement made under PCT article 34 which mentions this amendment. In fact, this is clearly understandable. All these documents are required by the US PTO in the framework of the PCT but apparently they are too many and even the PTO staff cannot make head or tail of them. Patent Office high civil servants are today unaware of the burden they are inflicting upon the inventors by requiring galore of documents when these ones cannot in fact be taken into account properly by the staff of the Patent Office. The translation into English of the specification and the claims have been sent by mail whereas the translation has been transmitted by FAX. In the mail and the FAX, only the PCT application number could have been mentioned because, despite the application had been filed two months before, no serial number for the US patent application could have been meanwhile notified to the applicant. It is possible that the lack of serial number on the translation of the statement and the claims has confused the PTO staff. But the PTO was no more able to notify this number to the applicant before six months have elapsed since the application filing date. Of course, the Examiner and the clerks in charge of the present application will be generously exempted from paying any fee for these confusions

and delay such as a supplemental oath fee or a late fee. Only a patent office above approach ought to have a right of inflicting penalty fees on an applicant.

Anyway for giving a continuous basis for examination, the claims which are submitted just before have been amended with respect to the set of claims such as filed in the original PCT application. Suggestions from the Examiner in view of 35 USC § 112 have been gratefully inserted in the claims. The fixed arm in claim 9 has been cancelled and this claim has been amended in the way of claim 8 to be focused on an assembler which has been turned according to the invention into a multipoint vice (see substitute specification page 3, second paragraph, and end of first paragraph of page 13). Claim 10 has been amended for claiming the process of using any of the different variants of an assembler according to the invention such as they are claimed in the preceding claims.

With all the amendments which have just been presented, claims 1-10 are now not believed to suffer from the deficiencies upon which the Examiner has rejected them under 35 U.S.C. 112, So favorable reconsideration and withdrawal of the rejection of these claims are respectfully solicited.

Under 35 U.S.C. § 103, claims 1-7 and 10 have been rejected as being unpatentable over Neff in view of Thornton, Berna and Ditto.

The attention of the Examiner is first respectfully drawn to the fact that, according to 35 US § 103 second paragraph, the reference Berna EPO 0080960 patent is disqualified as prior art for the present application because they are owned by the same person (see MPEP 2187 and 2188). Indeed the EPO 0080960 patent corresponds to the US patent application 443,427 filed on November 22, 1982 which has been totally assigned to the present applicant long (December 26, 1984 and recorded by the PTO on April 3, 1985) before the present invention was made (of which priority date is March 8, 1990). The US patent application 443,427 is now still pending through a parent application under the serial number 08/051,851 (filed on April 22, 1993).

Secondly, if the applicant pays tribute to the Examiner for his handling of claims under 35 USC § 112, he recommends him to reconsider his way of interpreting 35 USC §103 first paragraph for evaluating the non-obviousness of the claims. Otherwise, every invention would be obvious even any invention not yet made. When the Examiner picks one component or two in a prior art document, then another components in another prior art documents, he makes nothing else than shopping in different hardware stores or different boxes from such a store. By the way, he can reconstruct everything especially if he refers to prior art documents on elementary particles. Indeed using this way, he will be never sure that the examined matter is non-obvious or not. And the purpose of 35 USC § 103 is however to delimit the non-obviousness. If the Examiner wants really to be sure that the examined matter discloses an invention non-obvious, he has to investigate whether the examined matter brings new advantages with respect to the prior art or not. Because if the examined matter brings new advantages, that means implicitly that problems have been solved and if the advantages are really new and never met before, that also means that solving these problems was non-obvious. And for making sure that advantages have never been met before, the Examiner might proceed according to 35 USC § 103, by referring on devices or methods of the prior art taken alone or in combination. Of course such a combination has to be reasonable, othererwise it would be already an advantage of getting another advantage by a sole device, if the

examined matter is a device, when only the combination of a lot of prior art devices was necessary to get the same another advantage. By picking components in prior art devices, the Examiner is building an aggregation. But he knows perfectly well that an aggregation has not the worth of an invention. Consequently, he must understand why his comparison with a real invention might be worthless.

The present invention offers numerous advantages upon the prior art, these advantages having been set out at length in the specification. For example, can the Examiner by using prior art devices alone or in combination clamp together two pieces of a china sauceboat elastically whatever are the shapes without damage for the china (see enclosed photographs of the bridge clamping of a china sauceboat, such as described pages 7-8 in the substitute specification and claimed in amended claim 10)? He would smash the edges of the sauceboat before long.

Anyhow the Examiner is invited with deference to indicate whether he keeps the powerful pressing means of the second arm 14, 16 of Neff or if he discards in addition the handle 18. On the other hand, the purpose of the sheaths surrounding the jaw ends in Thornton is to act as protecting wedges, but not as an essential means for exerting a pressure during clamping. The pressure means is materialized in Thornton by a big pin-shaped spring. In the present invention, the ring buffers are constituting the sole pressure means for the clamping and consistently they are thicker in the clamping direction. That is the thickness of the ring buffers according to the invention which makes possible to control a very gradual increase of the clamping force during set-up. The purpose of the ring buffers of the present invention is to replace advantageously the compression spring of the US patent application 443,427 (EPO 0080960 patent). That is in particular in what the ring buffers are differing from the safety sheaths of Thornton. The difference is all the more marked since Thornton's device is clearly departing from the "hammer-press" concept. It is more like a clothes peg extrapolation towards a large opening with the traditional defects of the clothes peg: jaws diverging from parallel during the clamping operation and force nearly impossible to be controlled because of the lever effect. The use of safety sheaths which is otherwise classic (around pliers noses or around fingers with gloves) is not liable to fundamentally alter the performances of the clothes peg. On the contrary, the use of ring buffers in the present application, as pads, for the "hammer-press", gives thereto new properties, such as the possibility in conjunction with another "hammer-press" according to the present invention, of clamping in all angular directions with an automatic control of the clamping force, which would be impossible with Thornton's press on a china sauceboat. Regarding the assertion of the Examiner that the end cap 32 would be removable, the applicant is sorry because such an end cap is strongly stuck at the end of the rods of the Ditto's device that the applicant has bought last August in Philadelphia. It is by the way clearly shown that the purpose of these cap ends is to prevent the free jaw from escaping out of the support rods when this jaw is not blocked by clamping. Anyhow a removable cap end would have been no use in Ditto since the other jaw is fixed. You cannot build another tool by removing the free jaw for reversing it for instance on the support rods. Besides the fact that Ditto has filed his application with only one free jaw long after the publication of the EPO 0080960 patent application, where the interest of having free the two jaws was clearly shown, is an evidence

that the shopping and mixing technique for reconstructing the present invention is meaningless. In addition, the Examiner can check that there is not a word in Neff's specification about an advantage of having two removable arms; no more it is claimed by Neff such arms. More likely, Neff has omitted of drawing ends of the support part simply to more focus on the arms and their compressing system. In other words, the fact that fixed stops are not shown on the Neff's drawings for the support part does not prove that they do not exist, the more so since such fixed stops were quite usual on clamps available on the market at the time Neff filed his application. Consequently withdrawal of claims 1-7 and 10 rejection is earnestly solicited from the Examiner.

Corrected drawings as required by the draftsman will be submitted after receipt of the "Notice of Allowability" within the statutory period according to 37 CFR 1.85.

A copy of the relevant citations of the prior art references in the first three pages of the original specification are enclosed so that the Examiner might consider properly these references.

Every ground of rejection has been responded to in accordance with 37 C.F.R. 1.111. Hence favorable reconsideration and allowance of amended claims 1-10 are petitioned with deference.

Respectfully submitted

Philippe BERNA
Philippe Berna

Correspondence address:
Mas Liotard - Les Brousses
F30410 Molières-sur-Cèze
France
Tel: +33 90 85 90 81
FAX: +33 90 85 90 81